IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 20193 of 2005(D)

PETITIONER:

RAGESH K. ALEX, AGED 24 YEARS,
S/O. LATE RAJAN K. JOSEPH,
KALARICKAL, PERUNGALA P.O., KAYAMKULAM.

BY ADV. SRI.B.HARISH KUMAR

RESPONDENTS:

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1. THE CHEIF MANAGER,
VIJAYA BANK, HEAD OFFICE 41/2,
M.G. ROAD, BANGALORE.

2. THE MANAGER, VIJAYA BANK,
NEAR BSNL BHAVAN, ALAPPUZHA.

BY ADV. SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON 10/10/2007 DELIVERED THE FOLLOWING:

WP(C) No. 20193/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF the DEATH CERTIFICATE OF THE FATHER OF THE PETITIONER.

P2 : COPY OF THE PROCEEDING DATED 04/08/1997 ISSUED BY THE FIRST RESPONDENT.

P3 : COPY OF the INTIMATION DATED 20/09/2001 ISSUED BY THE FIRST RESPONDENT.

P4 : COPY OF THE REPRESENTATION DATED 21/01/2004 SUBMITTED BY THE PETITIONER.

P5 : COPY OF THE ORDER DATED 07/06/2005 ISSUED BY THE FIRST RESPONDENT.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF THE RELEVANT PAGES OF CIRCULAR BEARING NO. 233/2004 DATED 20/11/2004.

// TRUE COPY //

PA TO JUDGE.

jg

V.GIRI, J.

WP(C) No. 20193 of 2005

Dated, this the 10th day of October, 2007

J U D G M E N T

The petitioner's father Shri.Rajan K.Joseph died in harness on 20/12/1995, while working in the Vijaya Bank. Apparently, petitioner's mother submitted an application on 20/05/1996 seeking employment assistance on compassionate grounds. Vide Ext.P2, petitioner's mother was informed that the Board of Directors has accorded permission to appoint the petitioner on his attaining the age of majority i.e. on 22/05/1999. Such permission is however subject to the condition that he should fulfill the terms and conditions of the scheme which will be in force at the time of appointment.

2. It seems that petitioner after attaining the age of majority on 22/05/1999 submitted an application before the 1st respondent, for compassionate appointment, on 12/09/2001 and reminder was sent on 19/03/2002. This was met with Ext.P5 order dated 07/06/2005 stating that there is no scheme for providing employment on compassionate grounds then in force and therefore the Bank is unable to consider the petitioner's request. Ext.P5 dated 07/06/2005 is challenged in this writ petition.

3. A counter affidavit has been filed on behalf of the Bank confirming the stand that there is no scheme for compassionate appointment, that the scheme was taken away with effect from 20/11/2004.

4. I have heard the learned counsel for the petitioner Shri.B.Harish Kumar and the learned counsel for the respondent Bank Shri.R.S.Kalkura.

5. In my view, it would not be possible for this Court to issue a writ of mandamus to the Bank to consider the petitioner for appointment under the compassionate scheme, in circumstances, where there is no scheme at present in force in the Bank for giving appointment to any dependent of a former employee, on compassionate grounds. The petitioner's mother could have secured employment or could have sought for consideration of appointment on compassionate grounds in the wake of her husband's death. Actually such an application was also made. But it seems that she was then employed in a private school, and according to Shri.R.S.Kalkura, learned Standing Counsel for the Bank, she was ineligible to be considered for appointment on compassionate grounds. Petitioner submitted the application for

appointment under the compassionate grounds in the year 2001, but that was rejected under Ext.P5 in the year 2005. This Court can only direct the Bank to consider the application filed by an eligible person for appointment under the compassionate appointment scheme. This Court cannot direct that a person has to be appointed. Therefore, it would not be possible to issue a direction to the Bank to consider the petitioner's case for appointment on compassionate grounds, in circumstances, where there is no scheme currently in force in the Bank for appointment under compassionate scheme.

6. Shri.R.S.Kalkura, learned Standing Counsel for the Bank submits that petitioner's case for ex-gratia payment in lieu of the compassionate appointment will be considered, provided, a suitable application is filed. This has been mentioned in Ext.P5 itself.

7. In the circumstances, this writ petition is disposed of upholding Ext.P5 and permitting the petitioner to make application for ex-gratia payment in lieu of compassionate appointment within a period of one month from the date of receipt of a copy of this judgment. If such an application is received by the Bank within the above period, the same shall be dealt with by the Bank, within a

period of three months thereafter, on merits in accordance with the scheme prevailing in relation thereto.

(V.GIRI, JUDGE.)

jg